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Report of the Human Rights Council

Letter dated 20 July 2007 from the Permanent Representative of the Philippines to the United Nations addressed to the President of the General Assembly

I attach herewith a copy of a letter dated 18 July 2007 from several Member States addressed to me regarding their position on the issue of the draft declaration on the rights of indigenous peoples (see annex).

I invite particular attention to be drawn to the last paragraph of the letter, in which the Member States request that the information they provide be circulated to all Member States. In this regard, I would greatly appreciate it if the present letter and its annex were circulated as a document of the General Assembly.

(*Signed*) Hilario G. **Davide, Jr.**
Permanent Representative

07-45541 (E) 140807

Annex to the letter dated 20 July 2007 from the Permanent Representative of the Philippines to the United Nations addressed to the President of the General Assembly

As you know, our countries place great importance on the rights of indigenous peoples and on reaching a broader agreement on the draft Declaration on the Rights of Indigenous Peoples, and on one which includes the diverse range of countries with significant indigenous populations. We reaffirm our commitment to participating constructively in an open, inclusive and transparent process to that end.

Only through amendments to the text of the Declaration, which address our most significant concerns, will it be possible for us to consider supporting the Declaration. We reiterate our support for a limited re-opening of the text, based on a thematic approach, and with the objective of achieving an irreducible minimum number of amendments.

The attached non-paper (see enclosure) outlines a thematic approach to concerns. We consider that such an approach would provide the necessary flexibility for interested parties to achieve an irreducible minimum. We can advise that countries in our group are working intensively to provide amendments based on key concerns and with this objective. These will be provided to the President of the General Assembly shortly.

In an effort to narrow concerns, amendments are being discussed in eight areas to 16 articles:

Self-determination, self-government and indigenous institutions (3, 4, 5, 33)

Lands, territories and resources (26, 29)

Redress (11, 27, 28)

Free, prior and informed consent (19 and 32(2))

Rights of third parties (46 only)

Intellectual property rights (11, 31)

Military issues (10, 30)

Education (14)

For many countries, this represents a significant narrowing down of concerns and preparedness to address minor concerns through interpretative statements. We are also aiming to make only the most minimal amendments to the articles identified, while still addressing key concerns.

Not all members of the group have identified all of these articles: the list is a composite.

We draw your attention to the decision that countries in our group have agreed not to pursue the concern regarding the definition of indigenous peoples. In our view, a definition is not necessary if the text is consistent with international law and does not imply that indigenous rights prevail over others. Our countries share, however, the concern with the Africa Group that indigenous situations vary from State to State and group to group, and that this text must be capable of being universal in its scope and application. For that reason, amendments to the declaration to render it consistent with international law and constitutional frameworks are essential.

We would be grateful if you could ensure that this information is included in your report to the President of the General Assembly and circulated to all member States.

18 July 2007

Permanent Mission of Australia
Permanent Mission of Canada
Permanent Mission of Colombia
Permanent Mission of Guyana
Permanent Mission of New Zealand
Permanent Mission of the Russian Federation
Permanent Mission of Suriname

Enclosure

Non-paper

Draft Declaration on the Rights of Indigenous Peoples Negotiation framework to achieve an irreducible minimum of amendments

28 June 2007

In a previous non-paper summarizing "Key Areas of Concern", a number of states with significant indigenous populations identified nine key areas of concern with the current draft Declaration on the Rights of Indigenous Peoples. Amendments to the current text offer the possibility of further clarity and a much wider and significant consensus in its favour.

A methodology that will serve to achieve an irreducible minimum of amendments is required. The text should be addressed thematically, using the key areas of concern that have been identified as a way of organizing focused discussion. Text would be negotiated under the heading of each key area of concern.

During consultations held on 25 and 26 June 2007, the moderator invited states to comment on substance and process, with a view to identifying an irreducible minimum number of amendments to the current text. In response to this request, we note the following:

- There are nine key areas of concern in the current text: self-determination, self-government and indigenous institutions; lands, territories and resources; redress and restitution; free, prior and informed consent; lack of clarity as to who "indigenous peoples" are; military defence issues; protections for the rights of others; intellectual property rights; and education.

- A thematic approach will be the most effective means of working towards an irreducible minimum number of amendments to the current text, using the key areas of concern as a basis to structure discussions and negotiations. This would provide clear parameters for the exercise, while providing flexibility in addressing concerns.

- In a thematic approach, provisions of the current text would be discussed as they relate to each key area of concern, rather than sequentially as they appear in the text. Such an approach avoids unnecessary discussion of text on which there is already agreement, and enhances the ability of the moderator and delegations to focus on those areas on which further work is required. Following a thematic approach may also have the effect of reducing the numbers of articles on which discussion and negotiation will be necessary.

- The Africa Group text helpfully provides a basis and reference point for consideration of text.

We are committed to working to minimize revisions to the current text to addressing outstanding concerns, and we will engage constructively and positively with all parties in efforts aimed at securing for this Declaration the widest possible consensus.